No. (1)

Supreme Court, U.S.
FILED

001481 JAN 23 2001

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

ANN POWERS, f/k/a
MELANIE ANN STUDINGER,

Petitioner,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

ANN POWERS
IN PRO SE
(SELF)
2380 Carson, Apt. #1
Detroit, Michigan 48209
(313) 608-8009

Rule 14.1 (a).

QUESTION PRESENTED

Does a mother and her children have a right to file and receive an Earned Income Credit Refund from the Government when the mother works out of her home or apartment?

LIST OF PARTIES

The parties to the proceedings below were respondent's: Sara Ann Ketchum, U.S. Department of Justice, Appellate Section Tax Division, Leonard Green, Clerk and Bryant Crutcher, Case Manager, United States Court of Appeals For The Sixth Circuit, Honorable Robert N. Armen & Mr. Charles S. Casazza, U.S. Tax Court, Robert D. Heitmeyer & Kimberly J. Webb, for the Commissioner Of Internal Revenue, Respondent.

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The Sixteenth Amendment to the Constitution....
as written and quoted.....

The Sixteenth Amendment, Provisions, ratificati
Congress enacted the Revenue Act of 1913.....

The Sixteenth Amendment gives taxpayers rights.

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PETITION FOR A WRIT OF CERTIORARI

The Petitioner respectfully requests and prays that a Writ Of Certiorari issue to review the judgment and opinion of the United States Court Of Appeals For The Sixth Circuit Court Sitting As The Law Court, entered in the above-entitled proceeding on: November 3rd, 2000'. RE: 00-1215, Powers v. CIR., District Court No. 07230-98.

OPINIONS BELOW

The Opinion of the United States Court Of Appeals For The Sixth Circuit Court Sitting As The Law Court is in fact Against the Petitioner.

JURISDICTION

The judgment of the United States Court of Appeals For The Sixth Circuit Court Sitting As The Law Court was entered on: November 03,2000'. The Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1257.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The Sixteenth Amendment to the Constitution gave Congress the power to levy and collect income taxes. After its ratification, Congress enacted the Revenue Act of 1913. Taxpayers report their income and claim deductions, exemptions, and credits. Taxpayers determine and report the amount owed to or from the government.

STATEMENT OF THE CASE

A. Statement of Facts

The Petitioner and her children are in fact INNOCENT OF THE DEFICIENCY AGAINST THEM.....The Petitioner and her children are in fact entitled to an Earned Income Credit refund. The Petitioner and her children have in fact proved beyond a "REASONABLE DOUBT" or "SHADOW OF A DOUBT", that they are in fact entitled to an Earned Income Credit refund.

The Petitioner read and studied at College her College text:

1995' EDITION

FEDERAL INCOME TAXATION

BY: STEVENSON, SIEG & LANGENDERFER

1994' Tax Returns - 1995' Tax Planning

The Petitioner prepared her refund according to the instructions contained in her College text and per the Government Tax Forms and instructions.

AGAIN THE SIXTEENTH AMENDMENT TO THE CONSTITUTION GIVES US THE RIGHT TO PREPARE AND FILE OUR TAX FORMS AND TO RECEIVE TAX CREDITS FROM THE GOVERNMENT. Yet, the Commissioner of Internal Revenue, Respondent disagrees and is finding reasons of not allowing the Petitioner and her children their refund money.

This IRS ABUSE HAS BEEN ON-GOING FOR THE PAST 10 YEARS.....The Petitioner and her children have been intentionally damaged and victimized by the IRS. The Petitioner feels that the IRS is intentionally damaging and targeting the Petitioner because the Petitioner and her children are DISABLED.

But, this Court is fully aware and advised of the fact that the Petitioner was intentionally disabled for **INSURANCE MONEY. And, no fault of the Petitioner. AND, THE FACT THAT THIS CASE IS NOT THE ONLY CASE.**

The Commissioner sent a "Notice of Deficiency for the 1996' tax year" to Melanie Ann Studinger (taxpayer), on January 22nd, 1998. On April 20th, 1998, taxpayer filed a petition in the Tax Court contesting the deficiency.

The petition was timely filed pursuant to Internal Revenue Code Section 6213(a) (26 U.S.C.), because it was filed within 90 days of the date of mailing of the notice of deficiency.

The Tax Court (Special Trial Judge Robert N. Armen, Jr.), on January 6th, 2000' filed memorandum findings of fact that the Petitioner did not have **ANY CHILDREN**, AND therefore did **NOT QUALIFY FOR THE EIC CREDIT** The Tax Court also stated that the Petitione **DID NOT HAVE ANY EARNED INCOME, AND THEREFOR FAVORED THE COMMISSIONER** and, on January 7th 2000', entered a decision accordingly.

Taxpayer, Petitioner after appearing in Court with her children filed a notice of ap on: February 8th, 2000'. The notice was ti pursuant to Federal Rule of Appellate Proced 13(a) and I.R.C. § 7483 because it was filed within 90 days of entry of the decision.

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ON: NOVEMBER 3RD, 2000', the Petitioner received an order affirming the decision of the Tax Court. The Order was entered and signed by the Clerk: Leonard Green, Clerk.

The Petitioner has two (2) children living with her since she gave birth. Two children and including herself that she must feed and support.

The Petitioner and her children are DISABLED.

*** THE EARNINGS ASSUMPTION RULE APPLIES:

FOR A PHYSICALLY OR MENTALLY DISABLED SPOUSE WHO DOES NOT WORK OUTSIDE THE HOME, A SPECIAL RULE APPLIES. THIS RULE ASSUMES AN EARNED INCOME OF $200 per month FOR ONE QUALIFYING PERSON AND AN EARNED INCOME OF $400 PER MONTH FOR TWO OR MORE QUALIFYING PERSONS.

The EARNINGS ASSUMPTION RULE APPLIES FOR EACH MONTH THAT THE QUALIFYING PERSON HAS A PHYSICAL OR MENTAL DISABILITY.....

These above FACTS DO IN FACT QUALIFY the Petitioner and her children to file and receive an Earned Income Credit Refund.

For the Earned Income Credit, Taxpayers can get a refund even if they have no tax liability. To claim the credit, a taxpayer must have either (1) a qualifying child for the tax year, or (2) reached age 25, but not reached age 65, before the end of the tax year. Also, for a taxpayer without a qualifying child, another taxpayer cannot claim a dependency exemption for this taxpayer. (Page 2-19, 1995' Edition Federal Income Taxation by: Stevenson, Sieg & Langenderfer

A Taxpayer claiming a Dependency exemption must provide more than 50% of the Dependent's **total support. Support** includes payments for food, clothing, education, medical and dental care, entertainment, transportation and lodging.

And, because no one or no other Taxpayer is in fact supporting my children & I, they can not claim us. Yet the IRS sent me notice that someone else is claiming my children & I on their taxes.

The Petitioner is in fact the only one that is supporting herself and her children. Again, no one else is in fact supporting the Petitioner and therefore, is not allowed to claim us.

The Petitioner and her children are in fact **disabled**, and the Petitioner is in fact supporting herself and her children on their monthly SSI INCOME OF: $530.00 and WELFARE PAYMENTS OF: $141.00 every two (2) weeks for her son. This does not cover expenses. And, we all are in fact aware of the fact that everything is in fact **FINANCIAL...** This amount is under poverty level for (3) three persons. The Petitioner and her children desperately need their tax credit dollars. **AND, AGAIN, IS CRYING AND PLEADING FOR MERCY, FROM THIS COURT.**

AND, BEING DISABLED THE FACT THAT THE TAX CREDIT DOLLARS ASSIST THE PETITIONER AND HER CHILDREN. THIS MAKES LIFE A WHOLE LOT EASIER.

And again, as stated, this case has been on-going for the past 10 years. And, although the Petitioner did in fact file for her tax credits, she only received (2) and, then the IRS sends the Petitioner "Notices of Deficiency" wanting the money back with Interest.

This is very unfair and causing more financial stress and pressure upon the Petitioner and her children.

The Petitioner can not believe that the IRS is targeting her and her children. The Petitioner would not have filed for her EIC Credit if she did not Qualify for the Credit. The Petitioner feels that she is again being victimized and intentionally targeted by the IRS.

The Petitioner also went to an AUDIT at the Federal Building, Detroit, Michigan where she showed proof of all rent receipts, phone bills, michcon-gas bills, electric bills, food receipts, dental and entertainment receipts. And, still and even with proof and showing receipts, the IRS did not believe nor allow the Petitioner her EIC Credit.

And, again, as the Petitioner had stated, the Petitioner did all the work herself and was in fact the only one supporting herself and her children and the fact that she and her children are Disabled Qualify to receive tax credit dollars from the Government.

And, although, the EIC Credit was IN FACT ESTABLISHED BY THE FEDERAL GOVERNMENT FOR THAT REASON, THE IRS AND THE COMMISSIONER OF INTERNAL REVENUE, IS STILL FINDING REASONS OF NOT ALLOWING THE PETITIONER AND HER CHILDREN THEIR REFUND MONEY.

This fact is also and has also violated the Petitioners' and her children's rights. Again, as stated in the Sixteenth Amendment of the Constitution.

This FINANCIAL BURDEN THAT THE IRS HAS INTENTIONALLY ATTACKED THE PETITIONER WITH HAS ALSO DISABLED THE PETITIONER AND HER CHILDREN EVEN MORE. CAUSING & CREATING SEVERE HARDSHIP. WHEN ALL THE PETITIONER DID WAS TO HONESTLY AND CAREFULLY FILE FOR HER EIC CREDIT MONEY.

The book states: couples might arrange their marriage date and the date they have a child (December or January) to reduce the tax bite. Or, for a Dependency Exemption finally, to some degree, taxpayers can control their tax credits. Usually, they should claim their CREDITS AS EARLY AS POSSIBLE.

ALSO, REMEMBER THE FIRST GOAL OF A TAX PLANNER: PAY THE LEAST TAX AT THE LATEST POSSIBLE TIME.

*****PLEASE NOTE: LIFE IS TOO SHORT, AND THE PETITIONER CAN NOT HAVE CHILDREN ANY MORE. THE PETITIONER HAD TO BE STERILIZED DUE TO HER DISABILIT
(IT IS MORE THAN LIFE THREATENI

AND, THE PETITIONER HAD NO CHOICE NOR TIME TO PLAN HER PREGNANCIES.

But the fact remains, I, the Petitioner still have two (2) mouths to feed and myself. My son & my daughter whom I work for and LOVE.... I AM DOING MY BEST TO BE A GOOD MOM. AND, I WANT TO GIVE MY CHILDREN EVERY-THING POSSIBLE. I AM AND ALWAYS WAS AN HONEST WOMAN AND I PLAN TO CONTINUE TO FEED AND SUPPORT MY CHILDREN EVEN IF THE IRS DOES NOT ASSIST ME.

BUT, THE FACT REMAINS THAT THE IRS IS NOT SUPPOSE TO USE WOMEN & BABIES AND, CAUSE MORE FINANCIAL HARDSHIP. BUT, FOR SOME UN-GODLY REASON IN THE STATE OF MICHIGAN IT IS PREVALENT.

This is not just Federal but State also. We have received no RENT NOR HEAT, NOTHING BACK FROM THE STATE OF MICHIGAN.

At first I thought there was something wrong with me. So I checked my Tax Book again. I re-read the forms again. I prepared my tax forms per the book and the instructions. I mailed them by "Certified mail".

I thought to myself, something is really very wrong. And, IT'S NOT my imagination. I took my children to Court with me as proof. The Honorable Judge Armen saw my Dependents. And, still he ruled against me.

Maybe the Judge did not realize that the children were mine. But, believe you me, I have the stretch-marks to prove it.

The book also states that my children and I are entitled to a "Disability" Credit and the Credit for the Child & Dependent Care Credit. The book also states word for work that regardless of age, the Parent claims the credit for a child mentally or physically incapable of self-care. My children are dependent upon me. And, although, I am Disabled also, I try and do my best and as much as possible for my children. I try to make things as simple as possible.

I AM TRYING TO MAKE A BETTER LIFE FOR MY CHILDREN & I. THE PETITIONER HAS WORKED HARD AND FEELS THAT SHE & HER CHILDREN ARE ENTITLED TO RELIEF FROM THIS COURT AND BEG FOR MERCY.

The Sixteenth Amendment to the Constitution and the Constitution gives persons, taxpayers the right to file a tax return and prepare their tax refund. And, although the Lower Court & the Commission of Internal Revenue, Respondent disagrees with the Petitioner, the Petitioner is pleading with this Court to realize that the Petitioner and her children are entitled to be heard and are entitled to file and receive tax credit dollars. That this Court is fully aware of and advised of the FACTS IN THIS CASE AND REALIZE THE FINANCIAL HARDSHIP THIS CASE HAS COST THE PETITIONER AND THAT THIS COURT REALIZE THAT THE PETITIONER IS NOT GUILTY OF THIS DEFICIENCY.

REASONS FOR GRANTING THE WRIT

1. CLEAR AND DIRECT FACTS OF AUTHORITY AND EVIDENCE WARRANTS A CLEAR DECISION OF NOT GUILTY OF A DEFICIENCY AND IN FAVOR OF THE PETITIONER. THAT THE PETITIONER AND HER CHILDREN HAVE IN FACT PROVED BEYONG A "REASONABLE DOUBT" THAT THEY ARE IN FACT "INNOCENT" AND, THAT BY NO MEANS SHOULD THE PETITIONER BE HELD RESPONSIBLE FOR NOR ACCOUNTABLE FOR THE "DEFICIENCY" THAT IS BEING HELD AGAINST HER.

AGAIN, THE PETITIONER AND HER CHILDREN BEG FOR "MERCY" DUE TO FINANCIAL HARD-SHIP UPON THE PETITIONER AND HER CHILDREN.

CONCLUSION

We beg this Court to grant the petition in this case and to resolve this case in favor of the Petitioner and her children.

Respectfully submitted,

ANN POWERS
Petitioner

2380 Carson
Apartment #1
Detroit, Michigan 482
(313) 608-8009

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APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

DECISION: ORDER AFFIRMED DECISION OF THE TAX COURT.

DOCKET: NO. 00-1215

ARGUED: NOV. 03, 2000'

DECIDED: NOV. 03, 2000'

PANEL: MERRITT AND SILER, CIRCUIT JUDGES; SARGUS, DISTRICT JUDGE

Ann Powers, f/k/a Melanie Ann Studinger,

Petitioner

v.

Commissioner of Internal Revenue,

Respondent

Ann Powers appeals a tax court order sustaining the Commissioner'S NOTICE OF DEFICIENCY. A deficiency of $3,556, 1996'

tax year. Powers petitioned the United States Tax Court for a redetermination. After conducting a trial, the court sustained the Commissioner's deficiency determination for tax year 1996. The court presumes that the Commissioner's deficiency determination is correct, and the taxpayer has the burden of proving otherwise. See Ekman v. Commissioner, 184 F.3d522,524 (6th Cir. 1999).

Powers has not met her burden of proving that the Commissioner's deficiency determination is incorrect.

Accordingly, this court affirms the decision of the tax court. See Rule 34(J)(2) Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

LEONARD GREEN

Clerk

UNITED STATES TAX COURT

WASHINGTON, DC

DECISION: ORDERED AND DECIDED

JAN. 7, 2000'

DOCKET: 7230-98.

ARGUED: JAN. 7, 2000'

DECIDED: JAN. 7, 2000'

PANEL: ROBERT N. ARMEN, JR.

SPECIAL TRIAL JUDGE

Ann Powers, f/k/a/
Melanie Ann Studinger,

Petitioner,

v.

Commissioner of Internal Revenue,

Respondent.

Ordered and decided that there is a deficiency in petitioner's Federal income tax for the taxable year 1996' in the amount of $3,556.

ENTERED: JAN 7 2000

RULE: EARNINGS ASSUMPTION RULE

****

HOWEVER, FOR A PHYSICALLY OR MENTALLY DISABLED SPOUSE WHO DOES NOT WORK OUTSIDE THE HOME, A SPECIAL RULE APPLIES. THIS RULE ASSUMES AN EARNED INCOME OF $200 per month FOR ONE QUALIFYING PERSON AN AN EARNED INCOME OF $400 per month FOR TWO OR MORE QUALIFYING PERSONS. THIS SAME RULE, THE EARNINGS ASSUMPTION APPLIES FOR EACH MONTH THAT THE QUALIFYING PERSON HAS A PHYSICAL OR MENTAL DISABILITY**********

Earned Income Credit (EIC)

For the earned income credit, taxpayers c
get a refund even if they have no tax
liabilty.

USUALLY THE STATUS AND SOURCE OF SUPPORT FUNDS MAKE NO DIFFERENCE. SOCIAL SECURITY INCOME, SCHOOL PAYMENTS UNDER THE G.I. BILL, AND WELFARE PAYMENTS QUALIFY IF THE DEPENDENT USES THEM TO BUY SUPPORT ITEMS.

SCHEDULE R

(FORM 1040) CREDIT FOR THE ELDERLY OR THE DISABLED

ANN POWERS SSN: 363-82-6537

JOHN POWERS SSN: 371-13-7233

CEDES POWERS SSN: 384-19-0125

PHYSICIAN'S STATEMENT:

B: THERE IS NO REASONABLE PROBABILTY THAT THE DISABLED CONDITION WILL EVER IMPROVE....

WENDY MCKAY, MD

DATE: 12-3-99'